

Amendments to the Drawings:

The attached replacement sheets 1-10, 12 and 14 of drawings include changes to FIGS. 1, 2, 3, 4, 6, 9, 11, 12, 15, 16, 17, 19, 21, 22, and 26.

In FIG. 1, reference numerals 210 and 236 and their associated lead lines have been deleted, and reference numeral 134 has been corrected to read 124.

In FIG. 2, reference numerals 210 and 224 and associated lead lines have been deleted.

In FIGS. 3, 6, 9, and 15, reference numeral 210 and the associated lead lines have been deleted.

In FIG. 4 reference numeral 37 has been changed to 87.

In FIG. 11, reference numeral 154 and the associated lead line have been deleted.

In FIG. 12, the lower reference numeral 198 has been changed to 199.

In FIGS. 16 and 19, reference numeral 196 has been changed to 125.

In FIG. 17, reference numeral 196 has been changed to 125, reference numeral 126 has been changed to 142, and original reference numeral 142 and the associated lead line have been deleted from handle 34.

In FIG. 21, reference numeral 158 has been corrected to read 198.

In FIG. 22, reference numeral 124 has been corrected to read 134, and reference numeral 199 has been corrected to read 198.

In FIG. 26, a reference numeral 250 and an arrow have been added.

Appl. No. 10/791,589
Amendment dated January 11, 2008
Response to Office Action of September 21, 2007

Attachment: Replacement Sheets
Annotated Sheets Showing Changes

REMARKS

This application has been amended in response to the Office Action mailed September 21, 2007, in order to place the application in form for allowance.

A replacement Declaration signed by the inventors is provided as required by the Examiner, to state correctly their acknowledgement of their duty to disclose all information known to be material to patentability as defined in 37 CFR §1.56. It is submitted, however, that the original Declaration was sufficient, as materiality to examination necessarily includes materiality to patentability.

A supplemental Information Disclosure Statement is provided together with this Amendment, accompanied by the required fee, and the Examiner is requested to consider the references identified therein.

The Examiner objected to the drawings as containing incorrect reference numerals and as failing to include certain reference numerals. Amended drawing sheets are included herewith in which the defects noted by the Examiner have been corrected. In particular, the reference numeral 210 and the associated lead line have been deleted from FIGS. 1, 2, 3, 6, 9, and 15, and the reference numeral 224 has been deleted from FIG. 2, as these reference numerals have not been used in the specification.

Reference numeral 134 has been corrected to read 124 in FIG. 1, and reference numeral 124 has been corrected to read 134 in FIG. 22, to agree with use of those reference numerals on page 12 at line 31, and on page 13 at line 2.

The reference numeral 37 in FIG. 4 has been corrected to read 87 to agree with the specification on page 6 at line 2.

Reference numeral 196 has been changed to 125 in FIGS. 16, 17, and 19, and the specification has been amended on page 13, at line 30, by changing "196" to read --125-- to agree with use of "125" on page 10 at line 12.

Also in FIG. 17, reference numeral 126 has been corrected to read 142 on handle 32 and reference numeral 142 has been deleted from handle 34, to agree with the specification at page 9, line 28, and at page 10 on lines 23 and 27.

In FIG. 21, reference numeral 158 has been changed to 198 to correct an obvious error and to agree with the specification on page 12 at line 34.

In FIG. 22, reference numeral 199 has been changed to 198 to agree with the specification on page 12, at line 34.

In FIG. 26, reference numeral 250 has been added to agree with the specification on page 14, at line 30 and on page 15 at lines 4 and 14.

The spelling of the word --the-- has been corrected on page 5 at line 12 as suggested by the Examiner.

The specification has been amended on page 13, at line 6, to clarify the location of the shell portion 199 of the handle 34 by referring to FIG 12, which has been corrected to include reference numeral 199, previously shown as 198. References to the shell layers 198 and 199 and to the side walls 125 have been corrected by amendment of the specification in the paragraph on page 13 at lines 17-31. The reference numeral 220 has been inserted into the specification at line 24 of page 14, to agree with FIGS. 1 and 9 of the drawings.

The Examiner objects to claims 11, 17, and 18 as containing informalities. These informalities amount to obvious typographical errors and have been corrected in the attached amendments to the claims.

The Examiner objects to the drawings as failing to show the blade safety lock as mentioned in claim 11, and rejects claim 11 under 35 USC § 112 as being indefinite. Claim 11 has been amended to correct a typographical error and to insert the word --safety-- to be consistent regarding the blade safety lock. Claim 11 recites that the blade safety lock engages "one of" the jaw or blade holder. The Examiner objects that the drawings depict a lock engaging only the jaw, and it is therefore unclear how it engages the blade holder. It should be noted that the claim does not call for the lock to engage "both" the jaw and blade holder, but only "one of" them. Engaging the jaw is engaging one of the jaw and the blade holder, and thus the claimed limitation is supported by the specification. In view of the specification, and FIG. 20, it is clearly apparent that the catch body 98 of the lock could be designed instead to pivot on the handle pivot joint 48 for the jaw 36 and thus could move to engage the tang of the blade carrier 50.

The Examiner states that it is unclear how the handle urges the blade safety lock to engage the blade. This is explained in the specification on page 8, line 27 through page 9, line 14, and is shown in FIGS. 9, 14 and 15.

The Examiner also rejects claim 11 under 35 USC § 102 as being anticipated by Hung et al. Claim 11 depends from claim 10, which should be allowed, and claim 11 therefore should be allowed for the same reasons.

New claim 34 has been added, depending from claim 11, and should also be allowable for the same reasons.

The Examiner rejects claim 2 under 35 USC §103 as obvious over Hung et al. in light of Thompson. This rejection is respectfully traversed. Hung et al. depicts a blade with a tang but the tang has a coplanar lug that extends radially to engage with an abutment face on an end of the folding handle. FIGS. 8 and 16 of the present application show clearly that leg 128, as recited in claim 2, extends laterally away from the main portion of the tang of the blade carrier and occupies a plane normal to that of the tang. Claim 2 has been amended to emphasize this distinction by reciting that the leg extends “laterally away . . . in a second plane normal to said first plane” However, Hung et al. fails to disclose or suggest a leg that extends laterally away from the main portion of the tang and occupies a plane normal to the plane of the tang as recited in claim 2. On the contrary, as shown in Fig. 1 in Hung et al., the lug protruding from the tang in Hung et al. occupies the same plane as the tang itself, and claim 2 is thus not anticipated by Hung et al. The claimed structure allows the tang to be thinner and cheaper to make than the tang shown in Hung et al., since both the tang and the leg 128 can be stamped out of a single piece of relatively thin sheet metal, while the claimed leg is connected with the tang so as to still offer a broad area for transfer of force between the handle and the tang. Rejection of claim 2 and dependent claims 3, 4, 5, 6, 7, 8, and 11 under 35 USC § 103 should therefore be withdrawn.

The Examiner rejects claims 15-19 under 35 USC § 102 as being anticipated by Hung et al. This rejection is respectfully traversed. As discussed above with respect to claim 2, Hung et al. depicts a blade with a tang, but the tang has a coplanar lug that extends radially to engage with an abutment face on the end of the folding handle. FIGS. 8 and 16 of the present application show clearly that leg 128, as recited in claim 2, extends laterally away from the main portion of the tang of the blade carrier and occupies a plane normal to that of the tang. Claim 15 has been amended to emphasize this distinction by reciting that the tang is parallel with the blade plane and the leg extends “laterally away . . . in a second plane normal to said blade plane” Hung does not disclose a leg, “attached to and extending laterally away from said tang in a plane normal to said blade plane,” as recited in claim 15. On the contrary, the protrusion from the tang in Hung et al. occupies the same plane as the tang itself, as shown best in Fig. 1 of Hung et al., and thus claim 15, as amended, is not anticipated by Hung et al. This design allows the tang of the present tool to be thinner than the tang of Hung et al., even allowing the tang and the leg to be stamped out of a single piece of sheet metal, while still offering ample material for transfer of forces between the handle and the tang. Claim 15 and claims 16 and 19, which depend from claim 15, are therefore allowable.

Claim 17 is amended to correct a typographical error in paragraph (c), and to clarify the definition of the claimed structure in paragraph (g). Claim 17, as amended, recites that the blade tang is parallel with a side wall of a channel of the first handle, and also recites a leg, “extending laterally away from said tang, . . . parallel with said channel base . . .” Hung et al. do not disclose a leg which extends laterally away from the tang. On the contrary, the protrusion from the tang in Hung et al. that engages an end of the handle to establish its extended position occupies the same plane as the tang itself, as shown best in Fig. 1 of Hung et al. Claim 17 thus is not anticipated by Hung. As mentioned above with respect to claims 2 and 15, this design allows the tang to be thinner, while still offering enough material to carry forces between the handle and the tang. Claim 17, and dependent claim 18, should therefore be found allowable.

The Examiner rejects claims 5-7 under 35 USC § 103(a) as obvious over Hung et al., in light of Thompson and Gringer. This rejection is respectfully traversed. Claims 5-7 depend from claim 2 and are allowable for the reasons set out above with respect to claim 2. Additionally, claim 5 has been amended to recite more specifically that the cushioning portions are of “a resiliently soft rubber-like elastomeric material.” Gringer fails to disclose several aspects of the subject matter of claim 5. Gringer depicts elastomeric material molded and adhering to the rounded convex handle of a tool. It does not depict it covering the margins of the sides of an open channel-like handle of a tool, as claimed in claim 5. This distinction is important, as it is the margins of the side walls of a channel-like handle of the present tool which bear the squeezing force required to prune a branch, and therefore cushioning on those portions is likely to significantly increase user comfort. Since Hung et al., Thompson, and Gringer fail to teach such use of a soft elastomeric cushioning portion on the margins of side walls of a channel-like tool handle, rejection of claims 5-7 under 35 USC § 103 should be withdrawn.

With respect to claim 6 in particular, Gringer does not disclose a molded shell of rigid plastic supporting the elastomeric material, as recited in claim 6; Gringer shows rubber molded directly to the metal of the tool. While applicants’ reference FN, “The Pocket Gardener” tool disclosed in the Information Disclosure Statement of August 18, 2005, includes rubber-like material molded over hard plastic molded over a metal channel in a tool whose handles fold or open in a manner somewhat like that of the tool handle disclosed in the present application, the soft rubber-like material is absent from the margins of the side walls of the channels of the handles of the Pocket Gardner and thus cannot act as the cushioning

portions defined by claim 5, even though the cushioning materials are molded over the plastic shell layer. "The Pocket Gardener" actually teaches away from the invention of claims 5-7 by using the rigid plastic, instead of the soft elastomeric material, to cover the margins of the channel side walls.

Claims 10 and 22 have been rejected under 35 USC § 103(a) as unpatentable over Hung et al., in view of Thompson, et al. (as to claim 10) and Mizutani, et al. The Examiner takes the position that regarding paragraph (e) of claim 10 and paragraph (f) of claim 22, "Mizutani, et al. teach that it is old . . . to incorporate a cavity surrounding the blade pivot joint (5) and a groove extending away from the cavity (11), a spring . . . having a pair of ends (16), a first end extending into the groove and being engaged with the jaw (11), and the other end extending to towards [sic] the second handle pivot joint and being engaged with the tang of the blade carrier (the end labeled as 16)."

Rejection of claims 10 and 22 on those grounds is respectfully traversed. It is submitted that Mizutani does not disclose any groove extending away from the cavity, but merely shows anchoring holes to receive the ends of the spring. The anchoring holes disclosed by Mizutani et al. are illustrated as shallow cylindrical cavities each having a diameter parallel with the plane defined generally by the scissors blades and each having a central axis parallel with the pivot axis of the scissors, so that the spring is required to have an end portion extending perpendicularly from an arm of the spring, as shown in FIG. 5C of Mizutani, et al. There is no suggestion that the anchoring holes disclosed by Mizutani et al. should be in the form of grooves, nor is there anything in the present application to suggest that "groove" should be interpreted to mean something other than a groove, nor has the Examiner provided any evidence that a person of ordinary skill in the art would understand the word, "groove" to refer to a hole such as the anchor holes of Mizutani et al.

It is also respectfully submitted that the Examiner is in error in finding that Mizutani et al. suggests that one of the opposite ends of a spring extends to "the second handle pivot joint and [is] engaged with the tang of the blade carrier." Both of the ends of the spring disclosed by Mizutani et al. are located in respective ones of the anchoring holes, located close to the scissors blade pivot shaft, and Mizutani has no handle pivot joint as required by claims 10 and 22; thus there can be no suggestion of an end of the spring extending from the cavity to a handle pivot joint. While Hung et al. disclose a tool having a handle pivot joint, the spring in the Hung et al. tool is exposed, carried on protrusions from the tangs of the blades, not in a cavity surrounding a blade pivot joint, and operates to urge the pruner blades

apart from each other in a completely different way from that defined by claims 10 and 22. The teachings of Hung et al. and Mizutani et al. thus fail to suggest the arrangement of the ends of a spring as defined in claims 10 and 22, and the rejections of claims 10 and 22 under 35 USC § 103(a) should therefore be withdrawn.

In the Office Action mailed 29 January 2007, line 4A of the Office Action Summary Form indicated that claims 28-31 and 33 had been withdrawn from consideration. Applicants' assignee concludes that the Examiner based the withdrawal on the claims purportedly being directed to a non-elected species. Applicants' assignee observes (1) a claim directed to a non-elected species is eligible for rejoinder if it depends from an allowable claim, and (2) rejoined claims must be fully examined for patentability. MPEP § 821.04. As claims 28-31 and 33 depend from allowable parent claims, applicants' assignee is entitled to have the claims rejoined and examined for patentability.

Applicants' assignee accordingly again requests the Examiner to rejoin and examine claims 28-31 and 33 in accordance with MPEP §§ 821.04 and 821.04(a).

Applicants' assignee observes that parent claims 2, 10, 15, 17, and 22 are patentable under 35 USC. §§ 102 and 103 and it therefore follows that dependent claims 28-31 and 33 are patentable under 35 USC. §§ 102 and 103. Applicants' assignee submits also that claims 28-31 and 33 comply with 35 USC. §§ 101 and 112.

In light of the foregoing amendments and remarks, the Examiner is respectfully requested to rejoin claims 28-31 and 33 to the present application pursuant to MPEP § 821.04(a), and examine claims 28-31 and 33 for patentability pursuant to MPEP § 821.04. Applicants' assignee further respectfully requests the Examiner to allow claims 2-8, 10, 11, 15-19, 22, 28-31, 33, and 34, all the claims remaining in the application, and to pass the application promptly on to issue.

Respectfully submitted,


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